

AMENDED IN SENATE AUGUST 17, 2011

AMENDED IN SENATE JULY 12, 2011

AMENDED IN SENATE JUNE 27, 2011

AMENDED IN SENATE JUNE 16, 2011

AMENDED IN SENATE JUNE 2, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 228

Introduced by Assembly Member Fuentes

February 2, 2011

An act to amend Section 11780.5 of the Insurance Code, relating to the State Compensation Insurance Fund.

LEGISLATIVE COUNSEL’S DIGEST

AB 228, as amended, Fuentes. State Compensation Insurance Fund: out-of-state risks.

Existing law creates the State Compensation Insurance Fund administered by a board of directors for the purpose of transacting workers’ compensation insurance, insurance against the expense of defending any suit for serious and willful misconduct against an employer or his or her agent, and insurance for employees and other persons for the compensation fixed by the workers’ compensation laws for employees and their dependents. Existing law authorizes the fund to insure a California employer against the employer’s liability for workers’ compensation benefits, under the law of any other state, for California employees temporarily working outside of California on a

specific assignment if the fund insures the employer's other employees who work within California.

This bill would expand that authorization so that the fund would be authorized to insure a qualified employer whose principal place of business is in California against the employer's liability for workers' compensation benefits, under the law of any other state, if the fund insured the employees who work within California, as specified. The bill would require the Department of Insurance, on or before March 1, 2015, to report to the Secretary of the Senate and the Chief Clerk of the Assembly regarding the experience of the fund in engaging in these transactions and make recommendations, as provided, and to post the report on the department's Internet Web site. The bill would prohibit the fund from initiating paid advertising or soliciting sponsorship of advertising campaigns to market or promote to prospective insureds the ability to insure qualified employers under the law of any other state and would make specified provisions inoperative on December 31, 2016.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11780.5 of the Insurance Code is
2 amended to read:

3 11780.5. (a) The fund may also insure a California employer
4 against his or her liability for workers' compensation benefits,
5 under the law of any other state, for California employees
6 temporarily working outside of California on a specific assignment
7 if the fund insures the employer's other employees who work
8 within California.

9 (b) (1) The fund is only authorized under this subdivision to
10 insure an employer whose principal place of business is in
11 California, provided the majority of the employer's operations and
12 employees are located within California, against his or her liability
13 for workers' compensation benefits, under the law of any other
14 state, if the fund insures the employer's employees who work
15 within California.

16 (2) The fund is only authorized ~~to transact insurance pursuant~~
17 ~~to this subdivision by contract with an~~ *to contract as a reinsurer*
18 *with a ceding insurer that has responded to a request for proposal*

1 from the fund and is admitted to transact workers' compensation
2 insurance in California and in the out-of-state jurisdiction where
3 the non-California employees are located. The fund may only
4 contract with an admitted insurer for purposes of this subdivision
5 if the *ceding* insurer meets all of the following criteria:

6 (A) The insurer has an A minus (A-) rating or better from A.M.
7 Best Company.

8 (B) The insurer has substantial prior experience in transacting
9 workers' compensation business on another insurer's behalf ~~in a~~
10 ~~fronting arrangement~~.

11 (C) The insurer has a minimum surplus of one hundred million
12 dollars (\$100,000,000).

13 (c) On or before March 1, 2015, the Department of Insurance
14 shall provide to the Secretary of the Senate and Chief Clerk of the
15 Assembly, pursuant to Section 9795 of the Government Code, a
16 report assessing the experience of the fund that is authorized
17 pursuant to this subdivision and shall make recommendations
18 concerning its continuation, limitation, or expansion with special
19 attention to the extent of advantages this practice offers California
20 employers, the California workers' compensation marketplace,
21 and the impact of this class of insurance, whether pro or con, on
22 the fund, its management, and the California marketplace. The
23 report shall be posted on the Department of Insurance Internet
24 Web site upon completion. The costs incurred by the Department
25 of Insurance in the assessment, writing, and publication of this
26 report shall be provided by the fund.

27 (d) The fund shall not initiate paid advertising or solicit
28 sponsorship of advertising campaigns to market or promote to
29 prospective insureds the ability to insure qualified employers under
30 the law of any other state.

31 (e) Subdivisions (b), (c), and (d) shall be operative only until
32 December 31, 2016.